

GOVERNOR EDMUND G. BROWN JR.

CALIFORNIA COMMISSION ON DISABILITY ACCESS

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MEMBERS of the COMMISSION

Guy Leemhuis – Chair
Scott Hauge – Vice-Chair
Tom Ammiano – Assembly Member
Connie Conway – Assembly Member
Ellen Corbett – Senate Member
Chris Downey
Douglas Wiele

MEMBERS of the COMMISSION

Lillibeth Navarro
Greg Thompson
Anthony Seferian
Chester “Chet” Widom
Betty Wilson
Steve Dolim
Michael Paravagna

Commission Executive Staff

Stephan Castellanos – Executive Director

**MEETING NOTICE AND AGENDA
CALIFORNIA COMMISSION ON DISABILITY ACCESS
EXECUTIVE COMMITTEE**

CCDA wants to provide the highest level of accessibility for all meetings. We encourage you to look at the detailed information starting on page 3.

December 17th, 2014

1:30 PM to 3:30 PM

(The end time is an estimate, the meeting may conclude earlier)

TELECONFERENCE # 1-866-770-5886

PARTICIPANT PASSCODE 19311577

(Please use the mute button when not speaking)

[Live Captioning](#)

<https://global.gotomeeting.com/join/244842589>

Meeting Site Location

**CITY OF LOS ANGELES DEPARTMENT ON DISABILITY
201 NORTH FIGUEROA ST. SUITE 100
LOS ANGELES, CA 90012**

Off-Site Meeting Locations (Teleconference Only)

**DEPARTMENT OF REHABILITATION
721 CAPITOL MALL
ROOM 260, FIFTH FLOOR
SACRAMENTO, CA 95814**

**2311 TARAVAL ST.
SAN FRANCISCO, CA 94116**

Notice is hereby given that the California Commission on Disability Access (CCDA) Executive Committee will hear, discuss, deliberate and/or take an action upon the following items listed in this notice. The public is invited to attend and provide their input or comments.

ITEMS:

- 1) Call to Order/ Roll Call**
- 2) Approval of Meeting Minutes (November 17, 2014) – Action**
- 3) Comments from the Public on Issues not on this Agenda:** The Executive Committee will receive comments from the public at this time on matters not on the agenda. Matters raised at this time may be briefly discussed by the Executive Committee and/or placed on a subsequent agenda.
- 4) Action Items From Previous Meeting - Update**
- 5) Committee Updates**
 - i) Education & Outreach
 - ii) Checklist
 - iii) Legislative
- 6) Staffing Issue - Update**
- 7) Report by Executive Director Stephan Castellanos - Updates**
 - i) Projects
 - ii) Bill Tracking
 - [AB 52 \(Gray, Public accommodations: construction-related accessibility claims\)](#)
 - [AB 54 \(Olsen, Public accommodations: construction-related accessibility claims\)](#)
- 8) Monthly Budget Update**

- 9) **Future Agenda Items:** The Executive Committee may discuss and set for action on future agendas, procedural and substantive items relating to state buildings regulatory programs, Commission policy and administrative matters.

10) Adjourn

The Executive Committee meeting is operating under the requirements of the Bagley-Keene Open Meeting Act set forth in Govt. Code Section § 11120-11132. The Act generally requires the Executive Committee to publicly notice their meetings, prepare agendas, accept public testimony, and conduct their meeting in public unless specifically authorized by the Act to meet in closed session.

- ❖ Meetings are subject to cancellation; agenda items are subject to removal or items may be taken out of order.
- ❖ The CCDA Executive Committee meets under the authority of Government Code § 8299.
- ❖ The CCDA Executive Committee may hold a closed session on pending or proposed litigation involving the Commission [Govt. Code § 11126(e)] and personnel matters and performance review relating to the Commission [Govt. Code § 11126(a)].
- ❖ The meeting facilities and restrooms are accessible to individuals with disabilities.
- ❖ Each CCDA Committee meeting will provide a teleconference line, large print agendas, and captioning.
- ❖ Requests for accommodations for individuals with disabilities (sign-language interpreter, assistive listening device, Braille, or any other accommodation needed by an individual) should be made to the Commission office no later than 10 (ten) working days prior to the day of the meeting.
- ❖ Technical difficulties with equipment experienced prior to or during the meeting preventing or inhibiting accessibility accommodation is not cause for not holding or for terminating the scheduled meeting.
- ❖ If Para transit services are needed, they may be contacted at (916) 429-2744, TDD (916) 429-2568 in Sacramento. [Sacramento Regional Transit](http://www.sacrt.com) (www.sacrt.com) has public transit available the day of the meeting. For alternate routes contact Sacramento Regional Transit at (916) 321-BUSS (2877); for hearing impaired (916) 483-HEAR (4327).
- ❖ For [Los Angeles Public Transit](http://www.metro.net) (www.metro.net) or (323) 466-3876 for bus and rail transit information. Riders with hearing or speech impairments use the California Relay Service – dial 711, and then the number you need. For [Para transit services](http://www.asila.org) (www.asila.org) or if you ARE a certified access services rider within Southern California and would like to make a reservation call: 1-800-883-1295, TDD 1-800-826-7280. If you ARE NOT a certified access services rider, contact customer service at 1-800-827-0829, TDD 1-800-827-1359.
- ❖ For the latest information on meeting status, check the [California Commission on Disability Access](http://www.ccda.ca.gov/) Web Site: <http://www.ccda.ca.gov/>
- ❖ Questions regarding this notice and agenda may be directed to [Steve Funderburk](#), Office Administrator at (916) 319-9974 or at 721 Capitol Mall, Room 250, Sacramento, California 95814.

**2) Approval of Meeting
Minutes- November 17th
2014**

**CALIFORNIA COMMISSION ON DISABILITY ACCESS
EXECUTIVE COMMITTEE
MEETING MINUTES**

November 13, 2014

1. CALL TO ORDER

Vice Chair Scott Hauge welcomed everyone and called the meeting of the Executive Committee of the California Commission on Disability Access (CCDA or Commission) to order at 1:30 p.m. at the City of Los Angeles Department on Disability, 201 North Figueroa Street, Suite 100, Los Angeles, California 90012.

The off-site meeting locations for teleconference were the Department of Rehabilitation, 721 Capitol Mall, Room 407, 5th Floor, Sacramento, California 95814 and Cal Insurance and Associates Inc, 2311 Taraval Street, San Francisco, California 94116.

Vice Chair Hauge reviewed the meeting protocols.

ROLL CALL

Committee Members Present:

Senator Ellen Corbett
Daniel Torrez, Office of Senator Corbett

Commissioners Present:

Guy Leemhuis, Chair
Scott Hauge (Teleconference)
Betty Wilson (Teleconference)

Other Commissioners Present:

Michael Paravagna

Commissioners Absent:

Steve Dolim

Staff Present:

Angela Jemmott, Program Analyst
Steven Funderburk, Office Technician

Also Present:

Richard Skaff, Executive Director, Designing Accessible Communities (Teleconference)
Staff Member Jemmott called the roll and confirmed the presence of a quorum.

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EXECUTIVE COMMITTEE
NOVEMBER 13, 2014, MEETING MINUTES**

2. APPROVAL OF SEPTEMBER 17, 2014, AND OCTOBER 30, 2014, MEETING MINUTES – ACTION

MOTION: Commissioner Betty Wilson moved to approve the September 17, 2014, and October 30, 2014, California Commission on Disability Access Executive Committee Meetings Minutes as presented. Commissioner Scott Hauge seconded. Motion carried unanimously.

3. COMMENTS FROM THE PUBLIC ON ISSUES NOT ON THIS AGENDA

There was no public comment.

4. COMMENTS FROM SENATOR CORBETT

Senator Corbett provided a history of the CCDA and thanked Commissioners for their work with the Commission.

5. ACTION ITEMS FROM PREVIOUS MEETING - UPDATE

Staff Member Jemmott stated there were no outstanding action items.

6. STRATEGIC PLANNING PROJECT - UPDATE

Staff Member Jemmott stated the strategic plan will be posted on the CCDA website. She asked if Commissioners would like the video presented at the Community Stakeholders Gathering to be included with the PowerPoint of the strategic plan.

Commissioner Wilson stated she will address this topic in Agenda Item 8.

Action Items

- No action items.

7. COMMUNITY STAKEHOLDERS GATHERING - RECAP

Commissioner Wilson reported the Community Stakeholders Gathering on October 21, 2014, in Los Angeles was a success. There were many people in attendance from Los Angeles and the surrounding area, including commissioners from smaller cities, community-based organizations, and professionals. She thanked the sponsors of the event, and stated the Commission received contributions for its continued work from members of the community. She recommended replicating this event throughout California.

Staff Member Jemmott added that there were also volunteers from the Department of Justice and Commissioners Thompson and Navarro's office. There were approximately fifty-one people in attendance. She commended the Commissioners for their collaborative effort in the success of this event.

Senator Corbett offered her congratulations on a very successful event.

Action Items

- No action items.

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8. COMMITTEE UPDATES

a. Education and Outreach

Commissioner Wilson, the chair of the Education and Outreach (E&O) Committee, stated her plan to propose to the Committee working Strategic Planning Goals 1, 2, and 4 into a conference in 2015, increasing media exposure to strengthen the visibility of the Commission, and dedicating Commission meetings to members of the community who have made contributions to accessibility and inclusionary practices.

Senator Corbett asked if there was an ongoing outreach effort to the Legislature. Some Commissions have a governmental liaison person who meets with legislative staff to keep them updated on activities of their commission. She asked if that was part of the CCDA's work.

Commissioner Wilson stated outreach to legislators is part of the E&O Committee's plan to keep legislators updated, informed, and welcomed to participate and provide input and feedback.

Senator Corbett asked if it will be part of the goal as a new executive director is selected. She suggested that be part of the formulation for new staff moving forward.

Commissioner Paravagna stated the Commission is in the process of putting together a Legislative Subcommittee. The short-term goal is to get it up and running and then to look at a legislative agenda, which cannot happen without relationships with legislators. The selection process for an executive director is now being set up and Senator Corbett's concerns will be included in the selection questions.

Vice Chair Hauge asked if this was currently included in the executive director's job description. Commissioner Paravagna stated his belief that there was something on that in the job description.

Senator Corbett stated it is a good time and opportunity to include that with the new changes going forward. She gave the example of the Seismic Safety Commission's executive director who visits legislators at the Capitol Building and discusses legislation. Another staff member works on government relations, attends hearings, testifies, and gets to know legislative staff. She recommended that this be considered with the CCDA because it will be helpful to the mission of the Commission.

Staff Member Jemmott stated Commission staff is small and the impact has not been as great as they would have liked it to have been. Executive Director Castellanos and she have gone to the Capitol Building to visit the offices and interview the authors of bills. She stated greater opportunities are in the future.

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Vice Chair Hauge added that it is hard to do that effectively without a strategic plan. Now that the Commission is moving toward a strategic plan, that will help in working with the legislators.

Senator Corbett agreed.

Public Comment:

Richard Skaff, the Executive Director of Designing Accessible Communities, stated Executive Director Castellanos has been an outstanding leader. He stated he is amazed at how much Executive Director Castellanos has done with so little. Mr. Skaff asked Senator Corbett how the Legislature can be convinced to better support the Commission's work, both fiscally and philosophically.

Commissioner Discussion:

Senator Corbett stated the first step is to ensure that members of the Legislature are aware of the Commission, its importance, and what it does so it will become a priority. She recommended that the Commission become involved in supporting legislation that is introduced and that Commissioners make themselves available to give their expertise to help the passage of that legislation.

Legislators will naturally be supportive of the work of the Commission because the Commission was created to preserve access and work with the business community to ensure that they have the necessary tools to protect access. Legislators can be convinced of the support of the Commission, but they first need to be aware of it and what it does.

Senator Corbett stated legislators who were in office when Senate Bill (SB) 1608 was introduced are aware of the Commission, but there are new members who have come to the Legislature since then. She suggested that the Commission continue to ensure that there is some avenue for Commissioners to meet with legislators on a regular basis. That is important for the overall support and advocacy for issues important to the Commission.

Vice Chair Hauge agreed and stated he is saddened that Executive Director Castellanos will be retiring at the end of the year. He stated the need for the Commission to find a replacement who can manage both the day-to-day operation of the Commission and the technical and social interaction with the Legislature because that relationship will be very important.

Senator Corbett agreed and added her sorrow that she, also, is leaving the Commission. She offered to help identify legislators who may be natural advocates for the Commission.

Commissioner Wilson agreed that the new executive director must have specific skills and a broad perspective to encompass the complexity of the issues of disability access and program access. She stated the need for the Commission to

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be very particular in the selection of the new executive director because they will come at a critical time.

Senator Corbett asked if there was a timeline for the selection process. Staff Member Jemmott stated Chair Leemhuis asked that the job opening be posted as soon as possible.

Public Comment:

Mr. Skaff asked if Executive Director Castellanos will sit through the hiring process to help determine the new executive director, and if he will be available to bring that person up to speed and to give some background.

Vice Chair Hauge stated Executive Director Castellanos has stated he will do whatever he can to make this transition as smooth as possible and to work with whatever the Commission decides.

Michael Paravagna agreed that Executive Director Castellanos is committed to supporting the work of the Commission and making this a smooth transition.

b. Checklist

Staff Member Jemmott stated the Checklist Committee has broken into four subgroups and has been given tasks. They are to report their findings to the Checklist Committee at the November 25th meeting.

Commissioner Paravagna stated the Checklist Committee is made up of people who understand access, construction, and design issues and are taking a fresh look at setting up a checklist that will be responsive to the phases of construction to provide guidance for inspectors at critical times. One of the issues that the Committee has faced is that some jurisdictions are tech-equipped and others are working from a binder out of the back of a truck. The Committee is challenged with creating a checklist that is meaningful to all field inspectors, including those at both of those ends of the spectrum. The Committee is off to a strong start in creating a useful living product that needs to be refreshed as it is tested and as building standards change.

Public Comment:

Mr. Skaff stated the California Building Standards Commission (CBSC) has had two years of code-adoption issues with the five code-writing agencies. The last CBSC meeting included proposals on electric vehicle charging stations. The present secretary, who is also the chair of the CBSC, has been concerned about the ability of the disability community to interact with the code-writing agencies in an effective way. Mr. Skaff stated code-writing agencies disregard the input from meeting participants by disallowing any discussion or alternate proposals. He asked the Commission to support the disability community's ability to participate in an effective way.

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c. Data Collection

Staff Member Jemmott stated Commissioners have not officially been identified to be a part of this Committee. There was one meeting with Commissioners Downey and Paravagna, the DOR, and the DSA to begin discussing the collection process, pulling together statistical questions and possible answers, as well as determining what questions need to be asked. She stated the hope to reconvene with the Committee to look at the collection process and ask more questions.

Chair Leemhuis stated Commissioners will be assigned to the Data Collection Committee between now and the next Executive Committee meeting and will provide an update at that time.

d. Legislative

Commissioner Paravagna, the chair of the Legislative Committee, stated he met with Executive Director Castellanos about his input concerning legislative concepts that he feels the Commission should pursue. Chair Leemhuis has appointed three members. The Legislative Committee will hold their first meeting soon. He stated his appreciation for Senator Corbett's attendance today and her offer to assist in outreaching to the Legislature.

Senator Corbett stated the ex-officio legislative members of the Commission are all turning out. She suggested trying to determine which members of the Legislature might have more of an interest in disability access issues so input can be made to the appointing bodies.

Chair Leemhuis agreed. He stated his plan to visit Senator Corbett to discuss this. It is important to have people who are supportive and interested and can help with potential legislation or proposed legislation.

Senator Corbett stated her hope to see Chair Leemhuis soon and noted that her last day in the Legislature was November 30th.

Action Items

- Chair Leemhuis is to assign Commissioners to the Data Collection Committee before the next Executive Committee meeting.
- Chair Leemhuis is to meet with Senator Corbett prior to November 30th.

9. STAFFING ISSUE UPDATE

Staff Member Jemmott stated the analyst position that has been budgeted for 2014-15 will be posted next week. Executive Director Castellanos will review the submitted applications and go through the hiring process.

Chair Leemhuis stated the Executive Director Search Committee met yesterday. It was determined that the Search Committee will make a recommendation for the executive director position to be formally shared with the Executive Committee and

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the position posted as soon as possible. The Committee reviewed and approved of the existing job description. Executive Director Castellanos has agreed to stay on until that position has been filled.

Vice Chair Hauge stated he was unsure if the activities with the Legislature are part of the job description.

Chair Leemhuis agreed that this should be part of the job description if it is not already. If it is missing, he stated he could add in a sentence and email it to all Commissioners to ensure that expectation is included.

Action Items

- Staff is to verify that the job description for the executive director includes activities with the Legislature.

10. REPORT BY EXECUTIVE DIRECTOR STEPHAN CASTELLANOS - UPDATES

a. Projects

Chair Leemhuis tabled this agenda item until the next Executive Committee meeting.

b. New Commissioner

Chair Leemhuis stated Commissioner Laurie Cohen Yoo will go through orientation so that she can become active and involved.

Action Items

- No action items.

11. MONTHLY BUDGET UPDATE

Staff Member Jemmott reminded Commissioners of the \$511,000 budget for fiscal year (FY) 2014-15. The current month expenditure is \$34,000 with an average of \$24,000 per month. She explained that the higher amount was due to two months of facility rent postings. The Special Funding account has been established by the State Controller's Office and the monthly budget reflects the new non-general-funded revenue account. The Commission raised \$2,500 through donations for the Community Stakeholders Meeting in October.

Chair Leemhuis stated the additional Committees, Committee Members, and Committee meetings cost the Commission more money. As the Commission goes to the Legislature for budget increases, there is a strong justification for why staff increases and an increased budget for the purposes of travel and holding meetings are necessary. While the Commission continues to do private fundraising, the main budget must also do the work that Commissioners want to do.

Action Items

- No action items.

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12. FUTURE AGENDA ITEMS

Chair Leemhuis stated future agendas will include the tabled projects item and Committee membership. He stated he will be prepared to have conversations about what Senator Corbett discussed - searching for potential people from the Legislature who may be interested in serving in an ex-officio capacity on the Commission.

13. ADJOURN

There being no further business, the meeting was adjourned at 2:45 p.m.

3) Comments from the Public on Issues not on the Agenda

NOTES

4) Action items from Previous Meeting

**1. Chair Leemhuis is to assign
Commissioners to the data Collection
Committee**

**2. Chair Leemhuis and Commissioner
Paravagna is to meet with the Senator
Corbett prior to November 30th.**

5) Committee Updates

NOTES

6) Staffing Issues

NOTES

7) Report by Executive Director

CCDA Legislative Status Report
Report ran on Tuesday, December 16, 2014 at 3:20 PM

AB 52

(Gray D) Public accommodations: construction-related accessibility claims.

Current Text: Introduced: 12/1/2014 [pdf](#) [html](#)

Introduced: 12/1/2014

Status: 12/2/2014-From printer. May be heard in committee January 1.

Location: 12/1/2014-A. PRINT

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
1st House				2nd House							

Summary: Would provide that a defendant's maximum liability for statutory damages in a construction-related accessibility claim against a place of public accommodation is \$1,000 for each offense if the defendant has corrected all construction-related violations that are the basis of the claim within 180 days of being served with the complaint and the defendant demonstrates that the structure or area of the alleged violation was determined to meet standards or was subjected to an inspection, as specified.

AB 54

(Olsen R) Public accommodations: construction-related accessibility claims.

Current Text: Introduced: 12/1/2014 [pdf](#) [html](#)

Introduced: 12/1/2014

Status: 12/2/2014-From printer. May be heard in committee January 1.

Location: 12/1/2014-A. PRINT

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
1st House				2nd House							

Summary: Would, when a plaintiff brings a claim alleging a violation of a construction-related accessibility standard within 3 years of a change in that standard, allow a plaintiff to collect statutory damages only if the plaintiff also provides the owner, agent, or other party responsible for the place in violation with a written notice or demand letter at least 60 days prior to filing any action and the violation is not cured. The bill would require the written notice or demand letter to contain specified information.

ASSEMBLY BILL

No. 52

Introduced by Assembly Member Gray
(Coauthors: Assembly Members Olsen, Perea, and Salas)
(Coauthors: Senators Cannella and Galgiani)

December 1, 2014

An act to amend Section 55.56 of, and to add Section 55.565 to, the Civil Code, relating to public accommodations.

LEGISLATIVE COUNSEL'S DIGEST

AB 52, as introduced, Gray. Public accommodations: construction-related accessibility claims.

Existing law allows a plaintiff to collect statutory damages in a construction-related accessibility claim against a place of public accommodation only if the plaintiff was denied full and equal access to the place of public accommodation on a particular occasion, as specified. Existing law imposes a minimum liability of \$1,000 on these statutory damages for each offense when a defendant demonstrates that the defendant has corrected the construction-related accessibility violation within 60 days of being served with a complaint and the defendant demonstrates that the structure or area of the alleged violation was determined to meet standards or was subjected to an inspection, as specified. Existing law also imposes a minimum liability of \$2,000 for each offense if the defendant has corrected all construction-related violations that are the basis of the claim within 30 days of being served with the complaint and the defendant is a small business, as specified.

This bill would instead provide that a defendant's maximum liability for statutory damages in a construction-related accessibility claim against a place of public accommodation is \$1,000 for each offense if the

defendant has corrected all construction-related violations that are the basis of the claim within 180 days of being served with the complaint and the defendant demonstrates that the structure or area of the alleged violation was determined to meet standards or was subjected to an inspection, as specified. The bill would reduce that maximum liability to \$1,000 for each offense if the defendant has corrected all construction-related violations that are the basis of the claim within 180 days of being served with the complaint and the defendant is a small business, as revised. The bill would also provide that specified statutory damages in a construction-related accessibility claim against a place of public accommodation that is a small business, as defined, may only be recovered if the place of public accommodation is granted a 180-day stay of court proceedings to meet specified requirements.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 55.56 of the Civil Code is amended to
- 2 read:
- 3 55.56. (a) Statutory damages under either subdivision (a) of
- 4 Section 52 or subdivision (a) of Section 54.3 may be recovered in
- 5 a construction-related accessibility claim against a place of public
- 6 accommodation only if a violation or violations of one or more
- 7 construction-related accessibility standards denied the plaintiff
- 8 full and equal access to the place of public accommodation on a
- 9 particular occasion.
- 10 (b) A plaintiff is denied full and equal access only if the plaintiff
- 11 personally encountered the violation on a particular occasion, or
- 12 the plaintiff was deterred from accessing a place of public
- 13 accommodation on a particular occasion.
- 14 (c) A violation personally encountered by a plaintiff may be
- 15 sufficient to cause a denial of full and equal access if the plaintiff
- 16 experienced difficulty, discomfort, or embarrassment because of
- 17 the violation.
- 18 (d) A plaintiff demonstrates that he or she was deterred from
- 19 accessing a place of public accommodation on a particular occasion
- 20 only if both of the following apply:
- 21 (1) The plaintiff had actual knowledge of a violation or
- 22 violations that prevented or reasonably dissuaded the plaintiff from

1 accessing a place of public accommodation that the plaintiff
2 intended to use on a particular occasion.

3 (2) The violation or violations would have actually denied the
4 plaintiff full and equal access if the plaintiff had accessed the place
5 of public accommodation on that particular occasion.

6 (e) Statutory damages may be assessed pursuant to subdivision
7 (a) based on each particular occasion that the plaintiff was denied
8 full and equal access, and not upon the number of violations of
9 construction-related accessibility standards identified at the place
10 of public accommodation where the denial of full and equal access
11 occurred. If the place of public accommodation consists of distinct
12 facilities that offer distinct services, statutory damages may be
13 assessed based on each denial of full and equal access to the distinct
14 facility, and not upon the number of violations of
15 construction-related accessibility standards identified at the place
16 of public accommodation where the denial of full and equal access
17 occurred.

18 (f) (1) Notwithstanding any other law, a defendant's liability
19 for statutory damages in a construction-related accessibility claim
20 against a place of public accommodation is reduced to a ~~minimum~~
21 *maximum* of one thousand dollars (\$1,000) for each offense if the
22 defendant demonstrates that it has corrected all construction-related
23 violations that are the basis of a claim within ~~60~~ 180 days of being
24 served with the complaint, and the defendant demonstrates any of
25 the following:

26 (A) The structure or area of the alleged violation was determined
27 to be "CAsp-inspected" or "meets applicable standards" and, to
28 the best of the defendant's knowledge, there were no modifications
29 or alterations that impacted compliance with construction-related
30 accessibility standards with respect to the plaintiff's claim that
31 were completed or commenced between the date of that
32 determination and the particular occasion on which the plaintiff
33 was allegedly denied full and equal access.

34 (B) The structure or area of the alleged violation was the subject
35 of an inspection report indicating "CAsp determination pending"
36 or "Inspected by a CAsp," and the defendant has either
37 implemented reasonable measures to correct the alleged violation
38 before the particular occasion on which the plaintiff was allegedly
39 denied full and equal access, or the defendant was in the process
40 of correcting the alleged violation within a reasonable time and

1 manner before the particular occasion on which the plaintiff was
2 allegedly denied full and equal access.

3 ~~(C) For a claim alleging a construction-related accessibility~~
4 ~~violation filed before January 1, 2018, the structure or area of the~~
5 *The* alleged violation was a new construction or an improvement
6 that was approved by, and passed inspection by, the local building
7 department permit and inspection process ~~on or after January 1,~~
8 ~~2008, and before January 1, 2016; within five years prior to the~~
9 *date the claim was served* and, to the best of the defendant's
10 knowledge, there were no modifications or alterations that impacted
11 compliance with respect to the plaintiff's claim that were completed
12 or commenced between the completion date of the new
13 construction or improvement and the particular occasion on which
14 the plaintiff was allegedly denied full and equal access.

15 (D) The structure or area of the alleged violation was new
16 construction or an improvement that was approved by, and passed
17 inspection by, a local building department official who is a certified
18 access specialist, and, to the best of the defendant's knowledge,
19 there were no modifications or alterations that affected compliance
20 with respect to the plaintiff's claim that were completed or
21 commenced between the completion date of the new construction
22 or improvement and the particular occasion on which the plaintiff
23 was allegedly denied full and equal access.

24 (2) Notwithstanding any other law, a defendant's liability for
25 statutory damages in a construction-related accessibility claim
26 against a place of public accommodation is reduced to ~~a minimum~~
27 ~~of two thousand dollars (\$2,000)~~ *maximum of one thousand dollars*
28 *(\$1,000)* for each offense if the defendant *has corrected all*
29 *construction-related violations that are the basis of the claim*
30 *within 180 days of being served with the complaint and*
31 *demonstrates both either of the following:*

32 ~~(A) The defendant has corrected all construction-related~~
33 ~~violations that are the basis of a claim within 30 days of being~~
34 ~~served with the complaint.~~

35 (B)

36 (A) The defendant is a small business that has employed 25 or
37 fewer employees on average over the past three years, or for the
38 years it has been in existence if less than three years, as evidenced
39 by wage report forms filed with the Economic Development
40 Department, and has average annual gross receipts of less than

1 three million five hundred thousand dollars (\$3,500,000) over the
2 previous three years, or for the years it has been in existence if
3 less than three years, as evidenced by federal or state income tax
4 returns. The average annual gross receipts dollar amount shall be
5 adjusted biannually by the Department of General Services for
6 changes in the California Consumer Price Index for All Urban
7 Consumers, as compiled by the Department of Industrial Relations.
8 The Department of General Services shall post that adjusted
9 amount on its Internet Web site.

10 (B) *The defendant is a small business as defined in Section*
11 *14837 of the Government Code.*

12 (3) This subdivision shall not be applicable to intentional
13 violations.

14 (4) Nothing in this subdivision affects the awarding of actual
15 damages, or affects the awarding of treble actual damages.

16 (5) This subdivision shall apply only to claims filed on or after
17 the effective date of Senate Bill 1186 of the 2011–12 Regular
18 Session of the Legislature. Nothing in this subdivision is intended
19 to affect a complaint filed before that date.

20 (g) This section does not alter the applicable law for the
21 awarding of injunctive or other equitable relief for a violation or
22 violations of one or more construction-related accessibility
23 standards, nor alter any legal obligation of a party to mitigate
24 damages.

25 (h) In assessing liability under subdivision (d), in an action
26 alleging multiple claims for the same construction-related
27 accessibility violation on different particular occasions, the court
28 shall consider the reasonableness of the plaintiff's conduct in light
29 of the plaintiff's obligation, if any, to mitigate damages.

30 SEC. 2. Section 55.565 is added to the Civil Code, to read:

31 55.565. When a plaintiff brings a construction-related
32 accessibility claim alleging a violation of a construction-related
33 accessibility standard by a place of public accommodation that is
34 a small business as defined in Section 14837 of the Government
35 Code, statutory damages under subdivision (a) of Section 52 or
36 subdivision (a) of Section 54.3 may be recovered against a place
37 of public accommodation only if the place of public
38 accommodation where the alleged violation occurred is granted a
39 180-day stay of court proceedings from the day the claim is filed
40 during which time the place of public accommodation may meet

- 1 the requirements of a qualified defendant as defined by paragraph
- 2 (8) of subdivision (a) of Section 55.52.

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ASSEMBLY BILL

No. 54

Introduced by Assembly Member Olsen

(Principal coauthor: Assembly Member Gray)

(Principal coauthors: Senators Berryhill, Cannella, and Galgiani)

**(Coauthors: Assembly Members Bigelow, Grove, Mathis, Patterson,
Perea, and Salas)**

(Coauthors: Senators Fuller and Vidak)

December 1, 2014

An act to amend Section 55.56 of, and to add Section 55.565 to, the Civil Code, relating to public accommodations.

LEGISLATIVE COUNSEL'S DIGEST

AB 54, as introduced, Olsen. Public accommodations: construction-related accessibility claims.

Existing law allows a plaintiff to collect statutory damages in a construction-related accessibility claim against a place of public accommodation only if the plaintiff was denied full and equal access to the place of public accommodation on a particular occasion, as specified. Existing law imposes a \$1,000 limit on statutory damages when a defendant demonstrates that the defendant has, among other things, cured the construction-related accessibility violation within 60 days of being served with a complaint. Existing law requires a demand letter alleging a construction-related accessibility claim to, among other things, state facts sufficient to allow a reasonable person to identify the basis of the claim.

This bill would, when a plaintiff brings a claim alleging a violation of a construction-related accessibility standard within 3 years of a change in that standard, allow a plaintiff to collect statutory damages only if

the plaintiff also provides the owner, agent, or other party responsible for the place in violation with a written notice or demand letter at least 60 days prior to filing any action and the violation is not cured. The bill would require the written notice or demand letter to contain specified information.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 55.56 of the Civil Code is amended to
2 read:
- 3 55.56. (a) Statutory damages under either subdivision (a) of
4 Section 52 or subdivision (a) of Section 54.3 may be recovered in
5 a construction-related accessibility claim against a place of public
6 accommodation only if a violation or violations of one or more
7 construction-related accessibility standards denied the plaintiff
8 full and equal access to the place of public accommodation on a
9 particular ~~occasion~~ *occasion, and the requirements of Section*
10 *55.565 have been met, if applicable.*
- 11 (b) A plaintiff is denied full and equal access only if the plaintiff
12 personally encountered the violation on a particular occasion, or
13 the plaintiff was deterred from accessing a place of public
14 accommodation on a particular occasion.
- 15 (c) A violation personally encountered by a plaintiff may be
16 sufficient to cause a denial of full and equal access if the plaintiff
17 experienced difficulty, discomfort, or embarrassment because of
18 the violation.
- 19 (d) A plaintiff demonstrates that he or she was deterred from
20 accessing a place of public accommodation on a particular occasion
21 only if both of the following apply:
- 22 (1) The plaintiff had actual knowledge of a violation or
23 violations that prevented or reasonably dissuaded the plaintiff from
24 accessing a place of public accommodation that the plaintiff
25 intended to use on a particular occasion.
- 26 (2) The violation or violations would have actually denied the
27 plaintiff full and equal access if the plaintiff had accessed the place
28 of public accommodation on that particular occasion.
- 29 (e) Statutory damages may be assessed pursuant to subdivision
30 (a) based on each particular occasion that the plaintiff was denied

1 full and equal access, and not upon the number of violations of
2 construction-related accessibility standards identified at the place
3 of public accommodation where the denial of full and equal access
4 occurred. If the place of public accommodation consists of distinct
5 facilities that offer distinct services, statutory damages may be
6 assessed based on each denial of full and equal access to the distinct
7 facility, and not upon the number of violations of
8 construction-related accessibility standards identified at the place
9 of public accommodation where the denial of full and equal access
10 occurred.

11 (f) (1) Notwithstanding any other law, a defendant's liability
12 for statutory damages in a construction-related accessibility claim
13 against a place of public accommodation is reduced to a minimum
14 of one thousand dollars (\$1,000) for each offense if the defendant
15 demonstrates that it has corrected all construction-related violations
16 that are the basis of a claim within 60 days of being served with
17 the complaint, and the defendant demonstrates any of the following:

18 (A) The structure or area of the alleged violation was determined
19 to be "CAsp-inspected" or "meets applicable standards" and, to
20 the best of the defendant's knowledge, there were no modifications
21 or alterations that impacted compliance with construction-related
22 accessibility standards with respect to the plaintiff's claim that
23 were completed or commenced between the date of that
24 determination and the particular occasion on which the plaintiff
25 was allegedly denied full and equal access.

26 (B) The structure or area of the alleged violation was the subject
27 of an inspection report indicating "CAsp determination pending"
28 or "Inspected by a CAsp," and the defendant has either
29 implemented reasonable measures to correct the alleged violation
30 before the particular occasion on which the plaintiff was allegedly
31 denied full and equal access, or the defendant was in the process
32 of correcting the alleged violation within a reasonable time and
33 manner before the particular occasion on which the plaintiff was
34 allegedly denied full and equal access.

35 (C) For a claim alleging a construction-related accessibility
36 violation filed before January 1, 2018, the structure or area of the
37 alleged violation was a new construction or an improvement that
38 was approved by, and passed inspection by, the local building
39 department permit and inspection process on or after January 1,
40 2008, and before January 1, 2016, and, to the best of the

1 defendant's knowledge, there were no modifications or alterations
2 that impacted compliance with respect to the plaintiff's claim that
3 were completed or commenced between the completion date of
4 the new construction or improvement and the particular occasion
5 on which the plaintiff was allegedly denied full and equal access.

6 (D) The structure or area of the alleged violation was new
7 construction or an improvement that was approved by, and passed
8 inspection by, a local building department official who is a certified
9 access specialist, and, to the best of the defendant's knowledge,
10 there were no modifications or alterations that affected compliance
11 with respect to the plaintiff's claim that were completed or
12 commenced between the completion date of the new construction
13 or improvement and the particular occasion on which the plaintiff
14 was allegedly denied full and equal access.

15 (2) Notwithstanding any other law, a defendant's liability for
16 statutory damages in a construction-related accessibility claim
17 against a place of public accommodation is reduced to a minimum
18 of two thousand dollars (\$2,000) for each offense if the defendant
19 demonstrates both of the following:

20 (A) The defendant has corrected all construction-related
21 violations that are the basis of a claim within 30 days of being
22 served with the complaint.

23 (B) The defendant is a small business that has employed 25 or
24 fewer employees on average over the past three years, or for the
25 years it has been in existence if less than three years, as evidenced
26 by wage report forms filed with the Economic Development
27 Department, and has average annual gross receipts of less than
28 three million five hundred thousand dollars (\$3,500,000) over the
29 previous three years, or for the years it has been in existence if
30 less than three years, as evidenced by federal or state income tax
31 returns. The average annual gross receipts dollar amount shall be
32 adjusted biannually by the Department of General Services for
33 changes in the California Consumer Price Index for All Urban
34 Consumers, as compiled by the Department of Industrial Relations.
35 The Department of General Services shall post that adjusted
36 amount on its Internet Web site.

37 (3) This subdivision shall not be applicable to intentional
38 violations.

39 (4) Nothing in this subdivision affects the awarding of actual
40 damages, or affects the awarding of treble actual damages.

1 (5) This subdivision shall apply only to claims filed on or after
2 the effective date of Senate Bill 1186 of the 2011–12 Regular
3 Session of the Legislature. Nothing in this subdivision is intended
4 to affect a complaint filed before that date.

5 (g) This section does not alter the applicable law for the
6 awarding of injunctive or other equitable relief for a violation or
7 violations of one or more construction-related accessibility
8 standards, nor alter any legal obligation of a party to mitigate
9 damages.

10 (h) In assessing liability under subdivision (d), in an action
11 alleging multiple claims for the same construction-related
12 accessibility violation on different particular occasions, the court
13 shall consider the reasonableness of the plaintiff's conduct in light
14 of the plaintiff's obligation, if any, to mitigate damages.

15 SEC. 2. Section 55.565 is added to the Civil Code, to read:

16 55.565. (a) When a plaintiff brings a construction-related
17 accessibility claim alleging a violation of a construction-related
18 accessibility standard within three years of a change in that
19 standard, statutory damages under subdivision (a) of Section 52
20 or subdivision (a) of Section 54.3 may be recovered against a place
21 of public accommodation only if the plaintiff provides the owner,
22 agent, or other party responsible for the place of public
23 accommodation where the alleged violation occurred with
24 sufficient written notice of the allegations and alleged access
25 barriers on which the claim is based at least 60 days prior to the
26 filing of any action and the alleged access barriers are not removed.

27 (b) A written notice is sufficient for the purposes of subdivision
28 (a) if either of the following conditions is met:

29 (1) The notice states facts sufficient to allow a reasonable person
30 to identify the basis of the construction-related accessibility claim
31 under subdivision (a) of Section 55.31 and states that the recipient
32 may be civilly liable for actual and statutory damages for a
33 violation of a construction-related accessibility requirement if the
34 access barriers that constitute the basis of the construction-related
35 accessibility claim are not removed within 60 days.

36 (2) The notice is a written demand letter that offers prelitigation
37 settlement negotiations in accordance with subdivision (b) of
38 Section 55.31.

39 (c) For the purposes of this section, "construction-related
40 accessibility claim," "construction-related accessibility standard,"

- 1 and “place of public accommodation” have the meanings set forth
- 2 in Section 55.52.

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NOTES

8) *Monthly Budget Update*

CCDA Narrative Monthly Budget Plan

Total Budget for FY 14-15 \$511,000.00

Current Month's expenditures:

39,304.57

NOTE: The fund categories can be re-allocated as needed.

PERSONNEL SERVICES

A. Salary and Benefits – Total: Budget \$350,000 FY 14-15

B. Position Count- 4

Commissioners (Per Diem), Executive Director, Program Analyst, and Office Technician

Benefits include: health care, retirement, unemployment, and other staff benefits
(Current Month expenditures: \$24,942.03)

SPECIAL FUND ACCOUNT

Account: 0942304-8790-1945-501 Established for Non-General Funded Revenue

Current Balance for Special Fund Account: **\$ 16.06**

Reporting as of November 30th 2014

CCDA Narrative Monthly Budget Plan

Con't:

OPERATING EXPENSES AND EQUIPMENT

C. General Expense-Budget Total: \$28,000.00

- **Office Supplies** including binders, file folders, printer paper, toner, staples, etc
- **Printing:** to include flyers, registration forms, handouts, workshop information, binding etc.
- **Phone and Internet Service:**
- **Postage:** Includes mailing, postage of flyers, program announcements, fiscal reports etc.
- **Meeting Support:** caption, meeting minutes, meeting rentals etc.

D. Facilities Operation- Total: \$39,000.00

- Monthly rent for Executive Staff office(current monthly cost \$3,120.75)

E. Travel – Total: \$8,000.00

- Travel includes local travel and TEC from all commission meeting travel

F. Training – Total: \$18,000.00

- Training scheduled for staff professional development and commissioner orientations

G. Consultant/Professional Services – Total: \$37,000.00

- Internal Contracts for Fiscal Services, Human Resources, and IT Services.
- Contracted Services

H. Information Technology – Total: \$24,000.00

- Website redesign, hosting, and hardware/software technical support

(Current Month expenditures for Operating Expenses: *\$39,304.57)

*\$33,922.60 was paid for the Strategy Plan Consultant final fees.

Total: \$511,000.00

9) Future Agenda Items

10) Adjourn